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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/835,873	04/16/2001	Mark Vange	CIRC018	5575

25235 7590 04/06/2005  
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EXAMINER

ALAUBAIDI, HAYTHIM J

ART UNIT PAPER NUMBER

2161

DATE MAILED: 04/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/835,873

**Applicant(s)**

VANGE ET AL.

**Examiner**

Haythim J. Alaubaidi

**Art Unit**

2161

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on Novemr 15, 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-5,7-9,11-16 and 21-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5,7-9,11-16 and 21-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 April 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. This communication is in response to the amendments filed on November 15, 2004.
2. Claims 1-5, 7-9, 11-16 and 21-23, are presented for examination following the amendment.
3. The Examiner acknowledges the cancellation of Claims 6, 10 and 17-20.
4. Claims 1-5, 7-9, 11-16 and 21-23, are rejected under 35 U.S.C. 103(a).

### ***Priority***

5. This application is a continuation of provisional Application No. 60/197,490 and therefore, accorded the benefit of the earlier filing date of 17 April, 2000.

### ***Continued Examination***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on November 15, 2004 has been entered.

***Claim Rejections - 35 USC § 112***

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 1 and 8, are rejected under 35 U.S.C. 112, second paragraph, as being indefinite

8. The term "topologically close" in claims 1 and 8 is a relative term which renders the claim indefinite. The term " topologically close " is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention; close to one person may not be the same to another.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 1-5, 7-9, 11-16 and 21-23, are rejected under 35 U.S.C. 103(a) as being unpatentable over Thomson Leighton (U.S. Patent No. 6,553,413 and Leighton hereinafter) in view of Michael Tso (U.S. Patent No. 6,047,327 and Tso hereinafter).

Regarding Claims 1-2, 4, 8-9, 15-16 and 23, Leighton discloses:

a communication network (Figure No 1, Element No. 14 and corresponding text)

a plurality of client applications coupled to the network (Figure No 1, Element No's. 10 and 16 and corresponding text; see also Col 3, Lines 56-58, i.e. and copies are located in regions close to the clients that are requesting them)

a set comprising one or more intermediary server coupled to the network (Figure No. 3, Element No's 36, 38 and 40; see also ISP; see also Col 5, Lines 50-56)

a data storage mechanism coupled to the network at a topological position with respect to the client applications that is unique from the topological position of intermediary server (Figure No. 1, Element No. 12; see also Figure No 3, Element No. 45 and corresponding text; see also Col 6, Lines 12-21, i.e. The servers are preferably located at the edges of the network; see also Col 6, Lines 35-38; see also Col 2, Lines 51-56; see also Col 10, Lines 23-29) and having an interface for communicating with the intermediary server (Figure No 5, Element No. 1 and corresponding text; see also Col 5, Lines 22-30)

means within the at least one intermediary server to access the data storage mechanism and establishing a channel (Col 4, Line 65 through Col 5, Line 10; see also Col 13, Lines 42-45)

using the intermediary server to format database content obtained from the data storage mechanism to a format usable by the client application (Col 1, Lines 21-40)

Leighton discloses all of the claimed subject matter set forth above, except it does not explicitly indicate the step of the first computer located topologically close to the client application and a second computer located topologically close to the data storage. However, Tso discloses the first computer located topologically close to the client application and a second computer located topologically close to the data storage (Figures No. 1 and 3 and corresponding text). Given the intended broad application of the Leighton system, It would have been obvious to a person of ordinary skill in the art at the time of Applicant's invention to modify the teachings of Leighton with the teachings of Tso to indicate the first computer located topologically close to the client application and a second computer located topologically close to the data storage as in any distributed network a plurality of clients and servers are connected such as in the Internet, one good reason would be to increase the amount of users that would lead to an increase in revenues.

Regarding Claim 3, Leighton wherein at lease on of the client applications comprises a web browser application (Figure 1, Element 16) and an HTTP request (Col 4, Lines 8-30).

Regarding Claim 5, the limitations of this claim is similar in scope to the rejected claim 1, above. In edition, Leighton discloses an intermediary server is topologically distant from the data storage mechanism (Col 5, Lines 55-56).

Regarding Claims 7 and 11-14, Leighton discloses the support for prioritizing the requests (Col 11, Lines 55-57, i.e. The serial numbers are then processed in increasing order of load; see also "priority list" at line 61 of the same Col).

Regarding Claims 21-22, the limitations of these claims are similar in scope to the rejected claim 1, above. In addition, Leighton discloses:

causing the intermediary server to determine availability (Col 3, Line 67 through Col 4, Line 2, i.e. In particular, the top level DNS server returns a list of low-level DNS servers that may be used by the client to service the request for the embedded object)

using the intermediary server to obtain substitute database content in the busy or unavailable event (Col 4, Lines 3-6).

### ***Points of Contact***

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Haythim J. Alaubaidi whose telephone number is (571) 272-4014. The examiner can normally be reached on Monday - Friday from 8:00 AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Safet Metjahic, can be reached on (571) 272-4023.

Any response to this office action should be mailed to:

The Commissioner of Patents and Trademarks, Washington, D.C. 20231 or telefax at  
our fax number (703) 872-9306.

Hand-delivered responses should be brought to the Customer Service Window of the  
Randolph Building at 401 Dulany Street, Alexandria, VA 22314

*Haythim J. Alaubaidi*

**FRANTZ COBY  
PRIMARY EXAMINER**

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Patent Examiner  
Technology Center 2100  
Art Unit 2161  
March 21, 2005